



LOUISIANA DEPARTMENT OF INSURANCE

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August 10, 2007

President George W. Bush  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

RE: Stafford Act Certifications for Louisiana

Dear Mr. President:

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. § 5121, *et seq.* ("Stafford Act") authorizes you, as President, to provide disaster assistance through grants to state and local governments as well as certain eligible non-profit organizations (hereinafter referred to as "Applicants") damaged by Presidentially-declared major disasters. As a condition to receive the eligible disaster assistance, the Stafford Act requires the Applicant obtain and maintain "such types and extent of insurance...as may be reasonably available, adequate, and necessary, to protect against future loss to such property." 42 U.S.C. § 5154(a)(1). However, the Stafford Act specifically provides that "[i]n making a determination with respect to availability, adequacy, and necessity under Paragraph (1), the President shall not require greater types and extent of insurance than are certified to him as reasonable by the appropriate State insurance commissioner responsible for regulation of such insurance." 42 U.S.C. § 5154(a)(2).

On August 29, 2005, Hurricane Katrina struck several states along the Gulf Coast from Louisiana to the western edge of the Florida panhandle resulting in the most destructive and costly natural disaster in U.S. history. Less than one month after Hurricane Katrina, on September 24, 2005, Hurricane Rita made landfall near the Louisiana-Texas border. In the aftermath of these unprecedented and devastating natural disasters, state and local governments as well as certain eligible non-profit organizations in the State of Louisiana continue to struggle to carry out their missions to provide necessary and desirable public, educational, and charitable services. One of the most serious concerns facing these entities is the availability and cost benefit of property and commercial flood insurance.

Under the authority granted to me by the Stafford Act as the as Commissioner of Insurance for the State of Louisiana, I hereby certify that commercial insurance coverage for the perils of flood and wind is not reasonably available to Applicants in order for Applicants to procure property insurance coverage for the full amount of their eligible disaster assistance to be received under the Stafford Act for damages sustained as a result of Hurricanes Katrina and Rita. Under current insurance market conditions, the premium cost of flood insurance in excess of the coverage provided by the National Flood Insurance Program ("NFIP") and of wind coverage would require these Applicants to expend a substantially higher percentage of their annual budgets for property insurance than the median amount expended by similar entities and organizations nationally. In addition, many Applicants with large risks have been unable to obtain quotes for higher layers of excess flood insurance. To require Applicants to purchase coverage to the full extent of the eligible disaster assistance, if such coverage were even available at all, would impose such excessive expense on Applicants as to substantially impair their ability to carry out their missions to provide necessary and desirable public, educational, and charitable services.

Further, I hereby certify that insurers providing commercial property insurance coverage in the areas affected by Hurricanes Katrina and Rita are often requiring policyholders to accept a deductible of 5% or more of the insured value of the property. Under these circumstances, the insurance coverage is not reasonably available for amounts within these increased policy deductibles.

Although an Applicant cannot reasonably obtain and maintain full property insurance coverage as required for their disaster assistance, an Applicant can and should obtain and maintain such property insurance coverage as can be purchased by a reasonable expenditure from its current annual operating budget. Such reasonable expenditure shall include the following:

A. An Applicant shall procure NFIP flood insurance coverage for building and contents for at least every facility that sustained flood damages in Hurricanes Katrina and Rita. The amount of this coverage shall be the maximum amount available from the NFIP.

B. An Applicant shall allocate a reasonable proportion of its current annual operating budget to the purchase of property insurance, including protection for the perils of wind and flood, for each of its properties that are the subject of FEMA public assistance grants. After a review of national statistics provided to me, I have determined that the reasonable proportion varies depending upon the type of organization. The reasonable percentage for each type of organization is set forth below. The Applicant shall procure property insurance coverage, separate from and in addition to NFIP coverage, at an annual premium equal to the specified percent of the Applicant's current annual operating budget (exclusive of capital outlay) according to the last available certified audited financial statement or the same percentage of the Applicant's annual operating budget for the current year of post-disaster operations, whichever is greater:

	ORGANIZATION	PERCENTAGE OF BUDGET
1.	Governmental	0.33%
2.	Elementary and Secondary Education	0.65%
3.	Post-Secondary Education	0.25%
4.	Health Care	0.67%
5.	Non-Profit Association	4.30%
6.	Non-Profit Trust	2.94%
7.	Non-Profit Religious	2.70%

C. An Applicant shall comply with the following requirements regarding the expenditure of the designated percentage of its current annual operating budget for the purchase of property insurance coverage:

1. Procure property coverage, including wind and other perils (exclusive of flood), up to the replacement cost.
2. With remaining funds, procure excess flood coverage.
3. To the extent that an Applicant intends to purchase blanket coverage, the Applicant is directed to the requirements of 44 C.F.R. §206.253(b)(2). Any blanket coverage must be scheduled in order to meet the waiver requirement.
4. I remind Applicants that in the Disaster Assistance Fact Sheet-DAP9580.3 FEMA states that "a deductible is not eligible for the same facility in a subsequent disaster of the same type." I have certified herein that coverage within the deductible is not reasonably available. I recommend that the deductible for property insurance coverage be 10% or less and the deductible should not exceed 15%. Further, this property insurance coverage should not include a combined deductible with any business interruption coverage.
5. The premium cost of business interruption insurance (i.e., time element) coverage shall be separate from and in addition to the percentage provided above for the purchase of property insurance. Likewise, the premium costs for other lines of insurance (i.e., workers' compensation, general liability, automobile liability, etc.) shall not be included in the property insurance percentage unless it can be shown that this expense is being incurred so as to meet a requirement of a FEMA public assistance grant.

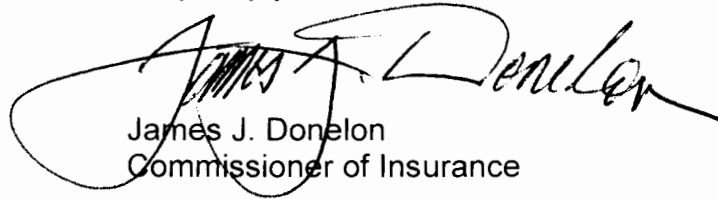
D. The Applicant shall provide documentation demonstrating compliance with the criteria established herein as part of the application process. Applications are to be addressed to the State Coordinating Officer, Governor's Office of Homeland Security and Emergency Preparedness, 415 North 15th St., Baton Rouge, LA 70802. An application checklist will be published at [www.louisianapa.com](http://www.louisianapa.com). Telephone inquiries may be made to Mr. Dan Jilek, Public Assistance Insurance Specialist, at (225) 303-6606.

This certification is not retroactive. If an Applicant has already purchased property insurance on any or all of its property that is the subject of a FEMA public assistance grant, and has met or exceeded the percentage of budget requirements set forth herein, this certification shall not authorize the Applicant to reduce the existing property insurance coverage already purchased.

I issue this certification based on percentage of budget due to the substantial quantity of FEMA public assistance grants that have been filed, and will be filed, by qualifying entities. The foregoing certifications and requirements are limited to grants made in connection with damages sustained by Hurricane Katrina and Hurricane Rita. These certifications and requirements shall remain in effect until otherwise modified, altered, or amended by me. I will review these certifications and requirements annually and issue any modifications, alterations, or amendments, if any, on or before December 1, beginning in 2008.

With best wishes and kindest personal regards, I remain

Very truly yours,



James J. Donelon  
Commissioner of Insurance

JJD:dtd

cc: Hon. Kathleen Babineaux Blanco, Governor  
Col. Thomas Kirkpatrick, State Coordinating Officer, GOHSEP  
Michael Chertoff, Secretary Homeland Security  
William Peterson, Director, Region VI  
J. William Newton, Chief Deputy Commissioner  
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